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DOCKET NO.: 4000-059-30

ASSISTANT COMMISSIONER FOR PATENTS
PO BOX 1450
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ATTN: MAILSTOP PCT

Re: U.S. Application Serial No.: 09/230,275
International Appl No: PCT/US97/13321
Applicant(s): DEBRA HICKS, ET AL.
Filing Date: JANUARY 23, 2002
International Filing Date: JULY 23, 1997
For: CHOLESTEROL SEPARATION AND FLUORESCENT
ANALYSIS

SIR:

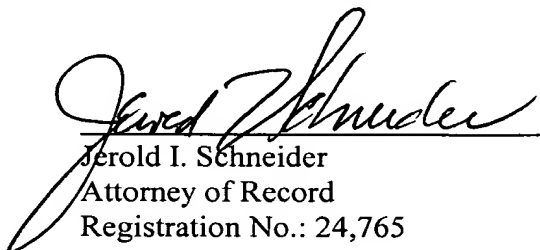
Attached hereto for filing are the following papers:

**STATUS INQUIRY
COPY OF DECISION UNDER 37 CFR 1.137(b)**

Our check in the amount of \$ -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary extension of time to make the filing of the attached documents timely, please charge or credit the difference to Deposit Account No. 50-1442. Further, if these papers are not considered timely filed, then a request is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

DLA PIPER RUDNICK GRAY CARY U.S. LLP


Jerold I. Schneider
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Registration No.: 24,765



DOCKET NO. 4000-059-30

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Debra HICKS, et al. ART UNIT:
SERIAL NO.: 09/230,275 EXAMINER:
FILING DATE: January 23, 2002
FOR: CHOLESTEROL SEPARATION AND FLUORESCENT ANALYSIS

STATUS INQUIRY

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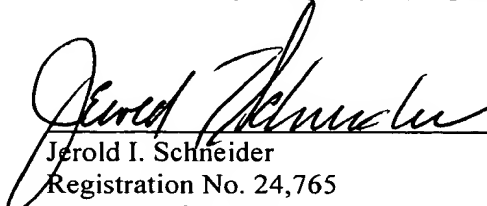
SIR:

Applicants respectfully request the status of the above-identified patent application.

Applicants note the last correspondence received from the U.S. PTO in the above-identified patent application was the Decision on Petition Under 37 CFR 1.137(b) which was received by the undersigned on March 12, 2002 . The Decision indicated the Petition was Granted and that application would be forwarded to the U.S. Designated/Elected Office (DO/EO/US). Applicants were advised on July 9, 2004 by the PCT Help Desk, Mr. Paul Bell, that this application "incorrectly listed the status as Abandoned". Applicants were further advised that application status would be updated and forwarded to the DO/EO/US for processing. Applicants undersigned representative have not received any further communication from the PTO in this regard.

We await a formal communication of status from the U.S. PTO.

Respectfully submitted,
DLA PIPER RUDNICK GRAY CARY U.S. LLP


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MAR 04 2002



UNITED STATES PATENT AND TRADEMARK OFFICE

4000-059-3045

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MAR 12 2002

In re Application of
HICKS et al
Application No.: 09/230,275
PCT No.: PCT/US97/13321
Int. Filing Date: 23 July 1997
Priority Date: 24 July 1996
Attorney's Docket No.: 5093
For: CHOLESTEROL SEPARATION AND
FLUORESCENT ANALYSIS

DECISION ON
PETITION UNDER
37 CFR 1.137(b)

This is in response to the "Petition To Revive Unintentionally Abandoned Application" filed on 23 January 2001. The decision by this Office on 18 September 2001 was inadvertently mailed to the wrong address. On 2 January 2002, a copy of the 18 September 2001 decision was faxed to applicants' counsel. The facsimile restarted the time period.

BACKGROUND

In a decision from this Office on 18 September 2001, the petition filed on 14 July 2001 was dismissed. The decision stated that the petition did not satisfied requirement (1) of 37 CFR 1.137(b) because petitioner did not provide the proper reply; an executed declaration or oath was not submitted.

On 23 January 2002, petitioner submitted the instant petition under 37 CFR 1.137(b). The petition was accompanied by, *inter alia*, with an executed oath or declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided the proper reply by submitting an executed declaration. In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b). Further, a review of the application reveals that the requirements under 35 U.S.C. 371 for entry into the national stage in the US have been satisfied.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371 date of this application is **23 January 2002**.

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